PATENT

In the United States Patent and Trademark Office

In the application of:

Diao XU et al.

Application No. 10/600,803

For: METHOD AND APPARATUS
FOR MIXING FLUIDS

In the United States Patent and Trademark Office

Docket No. AGSGP007

Examiner: Tony G. Soohoo

Group Art Unit: 1723

Date: June 6, 2005

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450,

Alexandria, VA 22313-1450 on June 6, 2005.

Signed:

ELECTION OF CLAIMS FOR PROSECUTION ON THE MERITS

Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450

Dear Sir:

Applicants submit this paper in response to the Office Action dated May 4, 2005 (Applicants note that June 4, 2005 due date fell on a Saturday). In response to the restriction requirement, Applicants hereby elect claims 1-13 (the Group I claims) for prosecution on the merits.

In response to Paragraph 3 of the Office Action, Applicants respectfully traverse the election of species requirement. In support of the election of species requirement, the Examiner alleges that the application contains claims directed toward four (4) patentably distinct species, which are identified in Paragraph 3 as Species A) through D). The Examiner, however, has not specified which of the embodiments disclosed in the application correspond to Species A) through D). As such, it appears to Applicants that the Examiner has improperly used the claims as the basis for the election of species requirement ("Claims are definitions of inventions. Claims are never species." MPEP § 806.04(e) (emphasis original)).

Furthermore, Applicants do not understand the basis for the Examiner's identification of Species A) through D). In the mixer of the subject application, the alternating current

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power source does not vibrate the fluid as set forth in the identification of Species C). The vibration is the result of the change in capacitance between the two conductors (or between the partition and the conductors), and this change in capacitance is induced by the alternating current. Thus, either the conductors vibrate (in one embodiment) or the partition vibrates (in another embodiment). As the conductors are coupled to the walls of the chamber, the vibration of the conductors is communicated through the walls of the chamber to the fluid.

In view of the foregoing, Applicants respectfully submit that the election of species requirement is improper and should be withdrawn.

Applicants respectfully request examination on the merits for claims 1-13 of the subject application. If any fees are due to effect consideration of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. AGSGP007).

Respectfully submitted, MARTINE PENILLA & GENCARELLA, LLP

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